.nz Authorisation Agreement

Domain Name Commission Limited

and

[Registrar]

AGREEMENT dated the   day of   [year]

BETWEEN

DOMAIN NAME COMMISSION LIMITED (New Zealand Company Number 2072182)
(**DNC**)

AND

[**LEGAL NAME**], trading as [**TRADING NAME**] [NZBN/ABN or Company Number]
(**Registrar**)

Registrar Registration ID: [insert]

NOTICES
The initial particulars for delivery of notices are:

> **DNC**
> Delivery and Postal Address: Level 13, 18 Willis Street, Wellington Central, Wellington, 6011, New Zealand
>
> Email: registrar@dnc.org.nz
>
> Attention: Domain Name Commissioner
>
> **Registrar**
> Delivery and Postal Address: [insert]
>
> Email: [insert]
>
> Attention: Chief Executive Officer

SIGNATURES

This Agreement is executed by the persons below on behalf of each relevant party. Each party represents and warrants that it has the power and authority to enter into this Agreement.

SIGNED for and on behalf of **DNC**:	SIGNED for and on behalf of the **Registrar**:
_____	_____
Authorised Signatory	**Authorised Signatory**
Name: Barbara Pearse	**Name**:
Position: Domain Name Commissioner	**Position**:
Date:	**Date**:

BACKGROUND

A.   InternetNZ has appointed DNC to manage aspects of the .nz Domain Name Space on behalf of InternetNZ.

B.   DNC is responsible under the .nz Rules for considering applications by incorporated bodies to become authorised Registrars.

C.   The Registrar is either:

    i.   an applicant that has applied to DNC to become an authorised Registrar; or

    ii.   an existing authorised Registrar in the .nz Domain Name Space to whom this Agreement applies.

D.   From the Registrar's applicable Authorisation Date (which, in the case of an existing authorised Registrar, will pre-date this Agreement), and subject to the .nz Rules and the terms of this Agreement, the Registrar will be authorised to manage .nz Domain Names on behalf of Domain Name Holders and direct InternetNZ on behalf of Domain Name Holders to make changes to the .nz Register in accordance with the .nz Rules.

AGREEMENT

1   Definitions and Interpretation

1.1   **Definitions -** In this Agreement, unless the context otherwise requires:

Agreement means this Agreement (including the schedules).

Authorisation Application means the application submitted by the Registrar to DNC requesting authorisation to be a Registrar in the .nz Domain Name Space and includes any other supporting information provided as part of the application process that DNC relied on to assess the application.

Authorisation Date means the date that the Registrar's authorisation comes into effect as notified by DNC to the Registrar in writing under, and in accordance with, the .nz Rules.

Applicable Laws means all applicable statutes, orders, by-laws or regulations binding on a party or applicable to a party, including, but not limited to, the Fair Trading Act 1986, the Privacy Act 2020 (or any substitute or successor statues), the GDPR, and any other data protection, privacy, consumer, trade or other laws applicable in any jurisdiction where a party operates or where data subjects are located.

Business Day means any day other than a Saturday, Sunday or public holiday in Wellington, New Zealand.

Control means the:

(a) power to control the direction or the management of an entity, whether through ownership of voting securities, by contract, or otherwise;

(b) the direct or indirect ownership or control of more than 50% of the voting shares or other equity interests of an entity; or

(c) the ability to appoint or remove a majority of the board of directors or equivalent governing body of an entity; or

(d) the power to exercise, directly or indirectly, a controlling influence over the management or policies of the entity.

Confidential Information means any and all information relating to this Agreement and any and all information concerning a party's activities, business, finances, software, know-how, information, trade secrets, projects, forecasts, information relating to systems or processes, marketing information, customer information or any other information relating to or owned by a party or that is obtained directly or indirectly from a party under or in connection with this Agreement.

Connection Agreement means an agreement entered into between InternetNZ and the Registrar which sets out the terms of the Registrar's access to the .nz Register.

Domain Name means an alphanumeric string in accordance with the requirements detailed under clause 2.3 of the .nz Rules.

Domain Name Holder means the person or lawfully constituted entity named on the .nz Register including, as the context requires:

(a) the person or entity identified in the 'Registrant Name' field as the result of a Query Search via the DNC website domain lookup tool; and

(b) a prospective Domain Name Holder.

Domain Name Holder Agreement means the agreement between the Registrar and any Domain Name Holder that contains the terms and conditions for managing .nz domain names.

Domain Name Holder Agreement Core Terms and Conditions means the minimum terms and conditions to be incorporated into the Domain Name Holder Agreement, as set out in Schedule 2.

GDPR means, as applicable:

(a) the General Data Protection Regulation ((EU) 2016/679) issued by the European Parliament and the Council of the European Union; and/or

(b) the United Kingdom General Data Protection Regulation (retained EU version) and the Data Protection Act 2018,

and in each case, includes any amendments, replacements, or supplementary legislation thereto.

Industry Best Practice means, in relation to any undertaking and providing the Registrar's services, the exercise of the skill, diligence, prudence, foresight and judgement that would

be expected from a highly skilled and experienced Registrar in the .nz Domain Name Space, which involves, without limitation, carrying out its services in compliance with the Technical Requirements and applying the minimum standards and practices DNC expects authorised Registrars to have in place in the .nz Domain Name Space.

Insolvency Event means any of the following events in respect of a Registrar:

(a)   the Registrar unable to pay its debts as and when they fall due;

(b)   the Registrar ceases, or threatens to cease, to carry on business;

(c)   the Registrar has had a meeting convened, resolution proposed, petition presented or order made for its liquidation, winding up, statutory management or similar procedure;

(d)   the Registrar has had a receiver, manager, statutory official, liquidator, administrator or other person of similar function appointed in relation to its assets;

(e)   a security holder, mortgagee, or chargee has exercised, attempted to exercise or indicated an intention to exercise its rights under any security of which the Registrar is the security provider, mortgagor or chargor;

(f)   the Registrar is subject to voluntary administration; or

(g)   the Registrar is subject to anything analogous to the above under the laws of any applicable jurisdiction.

.nz Domain Name means any Domain Name that ends in .nz.

.nz Domain Name Space means the space under which .nz domain names exist.

.nz Register means the database maintained by InternetNZ that is the sole, authoritative register of .nz Domain Names and associated data.

.nz Rules means the rules that bind all the participants in the .nz Domain Name Space, which can be found on InternetNZ's and DNC's websites.

Personal Information has the meaning given in the Privacy Act.

Privacy Act means the Privacy Act 2020 as amended from time to time.

Registrar has the meaning given to that term in the .nz Rules, or as the context requires, means the party that has executed this Agreement as the Registrar.

Requirements means that the Registrar:

(a)   has the necessary skills, knowledge, customer support and financial viability to be able to meet the role and responsibility of a Registrar under the .nz Rules; and

(b)   meets the minimum standards and requirements for authorisation, including such standards and requirements set out in an Authorisation Application, the Licensing Guide issued by DNC from time to time and the .nz Rules.

Reseller means any person working in any way through or with a Registrar's systems in registering or managing .nz domain names on behalf of a Domain Name Holder.

Special Conditions means any conditions specified in Schedule 1 of this Agreement.

Technical Requirements means the technical requirements set out in the InternetNZ Product Documentation Portal.

1.2 **Interpretation** - In this Agreement, unless the context otherwise requires:

1.2.1 References to the clauses, sub-clauses and schedules are to the clauses, sub-clauses and schedules to this Agreement.

1.2.2 Headings are for convenience only and will not affect the interpretation of this Agreement.

1.2.3 Words in the singular include the plural and vice versa.

1.2.4 Where any term defined in this Agreement takes a different form for reasons of grammar, the different form has a corresponding meaning.

1.2.5 A reference to a person includes individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental and other regulatory bodies or authorities and other entities, in each case whether having separate legal personality.

1.2.6 Reference to any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced.

1.2.7 References to times of day or dates are to New Zealand times and dates respectively unless specifically stated otherwise.

1.2.8 The term **including** means including without limitation and the term **includes** means includes without limitation.

1.2.9 Any obligation not to do anything will be deemed to include an obligation not to suffer, permit or cause that thing to be done.

1.2.10 The terms **written** and **in writing** include any means of reproducing words, figures or symbols in a tangible and visible form.

1.2.11 No rules of construction apply to the disadvantage of a party because that party was responsible for preparing this Agreement or any part of it.

2 Application Process

2.1 This clause 2 applies to a new applicant that has applied to DNC to become a Registrar by completing an Authorisation Application and paying the authorisation fee to DNC.

2.2 DNC may notify the Registrar that DNC has conditionally approved the Registrar's Authorisation Application, with such approval conditional on the Registrar having:

2.2.1   signed and returned this Agreement within five Business Days of DNC notifying the Registrar of the conditional approval; and

2.2.2   entered into a Connection Agreement with InternetNZ and met all requirements for connection to the .nz Register specified by InternetNZ within six months of the date of this Agreement (unless DNC agrees (at its sole discretion) to an extension of time); and

2.2.3   met any Special Conditions.

2.3   Once both the Registrar and DNC have signed this Agreement, DNC will refer the Registrar to InternetNZ for connection to the .nz Register.

2.4   If the Registrar:

2.4.1   meets the requirements set out in clause 2.2.2 above, InternetNZ will notify DNC in writing; or

2.4.2   has not met the requirements set out in clause 2.2.2 above, InternetNZ will notify DNC in writing, including the reasons the Registrar has not met the requirements.

2.5   When DNC becomes aware that:

2.5.1   the Registrar has met the requirements set out in clause 2.2 above, DNC will notify the Registrar in writing that it will become an authorised Registrar with effect from the Authorisation Date as stated in that notice; or

2.5.2   the Registrar has not met the requirements set out in clause 2.2 above, DNC will notify the Registrar in writing that:

(a)   it has not met the requirements for authorisation, including the reasons; and

(b)   this Agreement is terminated with immediate effect.

3   Requirements and Conditions

3.1   As at the date that DNC signs this Agreement, DNC is satisfied that the Registrar meets the Requirements.

3.2   The Registrar must meet any Special Conditions to the Registrar's authorisation set out in Schedule 1.

3.3   It is a condition of this Agreement that the Registrar:

3.3.1   continues to satisfy the Requirements during the term of this Agreement;

3.3.2   complies with any Special Conditions imposed on the Registrar under clause 3.2;

3.3.3   complies with the .nz Rules as amended from time to time; and

3.3.4   has entered into a Connection Agreement and fulfilled all other prerequisite requirements for connection to the .nz Register set out in the Connection Agreement within six months of the date of this Agreement (unless DNC agrees to an extension of time at its sole discretion) and, after entry into the Connection Agreement:

(a)   remains a party to the Connection Agreement, which is not terminated, cancelled or expired; and

(b)   maintains compliance with the Connection Agreement including, but not limited to, any Technical Requirements.

3.4   In order to demonstrate continuing compliance with this Agreement and the .nz Rules the Registrar:

3.4.1   will provide to DNC (or anyone authorised to act on DNC's behalf) any information it requests (acting reasonably) within the timeframe set out in the request;

3.4.2   authorises DNC to conduct any relevant third party checks; and

3.4.3   will provide DNC with reasonable access to the Registrar's general place of business and/or its employees during the Registrar's normal business hours.

3.5   The Registrar is not authorised to:

3.5.1   hold itself out as an authorised Registrar; or

3.5.2   manage .nz domain names on behalf of Domain Name Holders and direct InternetNZ on behalf of Domain Name Holders to make changes to the .nz Register in accordance with the .nz Rules,

until the Registrar's Authorisation Date.

4   Registrar Obligations

4.1   The Registrar will:

4.1.1   comply with the terms of this Agreement;

4.1.2   ensure all information provided to DNC from time to time is accurate and complete;

4.1.3   perform its obligations under or in connection with this Agreement in accordance with Applicable Laws;

4.1.4   not engage in any activity that could or does bring the .nz Domain Name Space into disrepute;

4.1.5   retain all documentation, information and records regarding the Registrar's activity as a Registrar for a period of not less than seven years, including all instructions from Domain Name Holders regarding their .nz Domain Names;

4.1.6   ensure the "Registrant Name" field for any .nz Domain Name on the .nz Register is not populated in the Registrar's name unless the Registrar intends to use the .nz

Domain Name itself for its own business activities and otherwise in accordance with the .nz Rules;

4.1.7 enter into a Domain Name Holder Agreement with each of its Domain Name Holders which:

(a) includes, at a minimum, the terms and conditions set out in the Domain Name Holder Agreement Core Terms and Conditions; and

(b) does not include any terms and conditions that are inconsistent with the Domain Name Holder Agreement Core Terms and Conditions or the .nz Rules;

4.1.8 safeguard the rights of Domain Name Holders under the Registrar's management;

4.1.9 disclose accurately and completely on its website and in any Domain Name Holder Agreement the Registrar's terms and conditions associated with .nz Domain Name registration and management in the .nz Domain Name Space, including pricing and billing terms;

4.1.10 on the registration of a new .nz Domain Name, provide Domain Name Holders with all information required to be provided under the .nz Rules and information:

(a) confirming the registration of the Domain Name Holder's .nz Domain Name, the registration period, and the Domain Name Holder's obligations under the Domain Name Holder Agreement and the .nz Rules;

(b) on how to transfer or amend the .nz Domain Name; and

(c) advising of DNC's existence and its role in the .nz Domain Name Space;

4.1.11 comply with all lawful directions and requests of Domain Name Holders in a timely manner regarding .nz Domain Names, including requests for authorisation codes and directions concerning registration, registration period, cancellation, amendment, deletion, transfer, inaccuracy of information and any technical support and billing matters;

4.1.12 carry out its obligations and activities in a prudent and competent manner and in accordance with Industry Best Practice;

4.1.13 ensure it has in place and maintains such security, technical and operational capability, equipment, redundancy and procedures as are reasonable in the circumstances to:

(a) prevent technical failure, breach of security, and disruption to the .nz Register and or to the security, stability and resilience of the .nz Domain Name Space;

(b) prevent technical failure of its business operations, and services the Registrar provides, in connection with the .nz Domain Name Space;

(c) ensure the availability of any of the services the Registrar provides in connection with the .nz Domain Name Space;

4.1.14 prepare, maintain and comply with a reasonably suitable business continuity plan for its business operations in connection with the .nz Domain Name Space;

4.1.15 ensure it has in place such security safeguards as are reasonable in the circumstances to prevent loss of, unauthorised access, unauthorised use, unauthorised disclosure and unauthorised modification or other misuse of, data used by the Registrar in connection with the .nz Domain Name Space;

4.1.16 maintain business operations and technical and organisational equipment in accordance with Industry Best Practice for the Registrar to competently handle the volume of transactions it expects to undertake;

4.1.17 comply with the Technical Requirements published by InternetNZ and any guidance or minimum standards published and notified to the Registrar by DNC in respect of the .nz Domain Name Space;

4.1.18 comply with all lawful directions given by DNC pursuant to its powers in the .nz Rules, or to enforce compliance with this Agreement and/or the .nz Rules;

4.1.19 notify DNC immediately if:

(a) the Registrar is subject to an Insolvency Event;

(b) the Registrar or any of its directors breaches any Applicable Law or is convicted of any offence involving dishonesty, fraud, misuse of funds or misuse of information;

(c) the Registrar has experienced, or is likely to experience, any outage and/or disruption to the services it provides to Domain Name Holders in the .nz Domain Name Space; or

(d) the Registrar is in breach of, or may have breached, this Agreement;

4.1.20 obtain DNC's prior written consent for any assignment or change of Control in accordance with clauses 14.2 and 14.3; and

4.1.21 notify DNC in writing as soon as the Registrar becomes aware of, and where reasonably practicable, at least one calendar month before implementing or giving effect to any material change to the nature or manner in which the Registrar performs its obligations, services and activities as a Registrar (and, without limiting the generality of the foregoing words), a material change may include:

(a) outsourcing or subcontracting to a third party any substantial part of the Registrar's performance of its obligations, services and activities it performs as a Registrar;

(b) introducing new systems and processes to perform the Registrar's obligations, services and activities as a Registrar that materially change the manner in which the Registrar performs such obligations, services and activities;

(c)   any restructure of, or material reduction in, the Registrar's key personnel that interact with, or provide services to, Domain Name Holders;

(d)   any director of the Registrar resigning, being removed or otherwise ceasing to hold office; and

(e)   any director of the Registrar being appointed.

5   DNC Obligations

5.1   So far as is reasonably practicable, and in accordance with the .nz Rules, DNC will:

5.1.1   convene meetings of an advisory group of representatives of authorised Registrars, and representatives of both DNC and InternetNZ to discuss issues regarding the resolution of technical issues and management of the .nz Domain Name Space in accordance with any terms of reference agreed by that advisory group, DNC and InternetNZ;

5.1.2   maintain active oversight of and manage the aspects of the .nz Domain Name Space delegated to DNC by InternetNZ, including under the Operating Agreement between InternetNZ and DNC dated 25 March 2021 (or any replacement or amended agreement); and

5.1.3   exercise its responsibilities in a fair, open, transparent and timely manner.

6   Responsibility for Agents, Contractors and Resellers

6.1   Where the Registrar subcontracts any of its obligations to agents, contractors or Resellers, the Registrar must ensure it enters into a written agreement with such agent, contractor or Reseller requiring that the agent, contractor or Reseller is bound by, and complies with, all applicable obligations under this Agreement and the .nz Rules.

6.2   The Registrar remains solely liable to DNC for the acts and omissions of any of the Registrar's agents, contractors or Resellers as if they were the Registrar's acts and omissions.

7   Confidential Information, Security and Privacy

7.1   Subject to clause 7.3.1, each party will not (and each party shall procure that its personnel and any person to whom the party is authorised by this Agreement to disclose), at any time, directly or indirectly:

7.1.1   disclose or permit the disclosure of the other party's Confidential Information to any person; or

7.1.2   use the other party's Confidential Information other than for the purpose for which it was provided,

except to the extent:

7.1.3 required by Applicable Laws (in which case, unless precluded by Applicable Laws, the recipient party will use reasonable efforts to provide the disclosing party with sufficient notice, assistance and co-operation to allow it to prevent or minimise the disclosure);

7.1.4 disclosure is necessary to fulfill its obligations under, or is permitted under, this Agreement or the .nz Rules;

7.1.5 the information is publicly available without any cause attributable to the disclosing party; or

7.1.6 the other party has given its prior written consent to any such disclosure or use.

7.2 Each party will effect and maintain adequate security measures to safeguard the other party's Confidential Information against unauthorised access or use.

7.3 The Registrar acknowledges and agrees that DNC is entitled to:

7.3.1 share any and all information submitted to DNC or created by DNC as part of the Authorisation Application to InternetNZ to enable InternetNZ to assess the Registrar's business model and any risk as part of InternetNZ's responsibility to maintain the security, stability and resilience of .nz; and

7.3.2 share with any person or publish information about:

(a) statistics, market data and activity relating to .nz Domain Names (generally on an aggregated basis);

(b) .nz Domain Name registrations arranged by the Registrar according to: date of registration / name of the Registrar / zone/ status / or any combination of such criteria;

(c) .nz Domain Names arranged by the Registrar and transferred and cancelled according to: date of transfer or cancellation / name of Registrar / zone / status /or any combination of such criteria.

7.4 The Registrar must notify DNC promptly on becoming aware that:

7.4.1 a privacy breach (as that term is defined in the Privacy Act 2020) has occurred that affects information connected with the Registrar's obligations under this Agreement or the .nz Rules; or

7.4.2 it has received any complaint in relation to the interference with an individual's privacy connected with the Registrar's obligations under this Agreement or the .nz Rules.

7.5 This clause 7 survives termination or expiry of this Agreement.

8 Insurance

8.1 Despite, and without limiting, clause 9, DNC has taken out and will maintain professional liability insurance for all Registrars (as that term is defined in the .nz Rules). A copy of the insurance policy is available on request to DNC, the terms of which may be amended from time to time by DNC in its sole discretion.

8.2 The Registrar must notify DNC if:

8.2.1 any claims have been made against the Registrar that may be covered by the insurance policy taken out by DNC; or

8.2.2 any circumstances have occurred, or have become known to the Registrar, that may give rise to a claim under the insurance policy taken out by DNC.

9 Liability

9.1 Except to the extent liability cannot be excluded by Applicable Law, DNC is not liable to the Registrar for:

9.1.1 any loss or damage arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise;

9.1.2 any:

(a) business interruption;

(b) loss of revenue;

(c) loss of income;

(d) loss of business;

(e) loss of profits;

(f) loss of contracts;

(g) loss of data; or

(h) loss of investment,

arising under or in connection with this Agreement, in each case whether direct or indirect;

9.1.3 any consequential, indirect, incidental or special damage or loss of any kind arising under or in connection with this Agreement; or

9.1.4 any claim, action, or proceeding brought by a third party against the Registrar (or any loss, damage, or liability incurred or suffered by the Registrar as a result of any such claim, action or proceeding).

9.2 Subject to clause 9.1, DNC's maximum aggregate liability under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise must not exceed an amount equal to the authorisation fee.

9.3 This clause 9 survives termination or expiry of this Agreement.

10   Indemnity

10.1 The Registrar indemnifies DNC from and against any claim, proceeding, loss, liability, cost and expense (including legal costs on a solicitor and own client basis) suffered or incurred by DNC arising out of, or relating to, this Agreement, including:

10.1.1   any breach by the Registrar or any of its agents, contractors or Resellers of this Agreement; and

10.1.2   any claim or proceeding brought by the Registrar's Domain Name Holder.

10.2 This clause 10 survives termination or expiry of this Agreement.

11   Variations to this Agreement

11.1 Subject to clauses 11.2 and 11.3, any variation to this Agreement must be in writing and signed by both parties.

11.2 DNC may from time to time vary this Agreement where variation is reasonably necessary or desirable for DNC's roles and responsibilities under this Agreement and/or the .nz Rules. DNC must give at least 60 days' prior written notice to the Registrar of any such variation to this Agreement coming into effect ("**Effective Variation Date**").

11.3 If the Registrar does not wish to continue its authorisation following any amendment made by DNC under clause 11.2, the Registrar may terminate this Agreement on no less than 10 Business Days' written notice, provided the notice is received by DNC before the Effective Variation Date. If the Registrar does not terminate this Agreement in accordance with this clause 11.3, it is deemed to have accepted the variation to this Agreement with effect from the Effective Variation Date.

12   Term and Termination

12.1 This Agreement takes effect on the date it is signed by both parties and will continue in force until terminated by either party in accordance with clause 11.3, this clause 12 or the .nz Rules.

12.2 The Registrar may, at any time, terminate this Agreement for any reason by giving 60 days prior written notice to DNC.

12.3 DNC may terminate this Agreement immediately by written notice to the Registrar where:

12.3.1   the Registrar has not entered into the Connection Agreement, connected to the .nz Register and fulfilled all prerequisite requirements for connection to the .nz

Register specified by InternetNZ within six months of the date of this Agreement (unless DNC agrees to an extension of time at its sole discretion);

12.3.2   the Registrar ceases to comply with any of the conditions in clause 3.3;

12.3.3   the Registrar is in breach of this Agreement and fails to remedy the breach in accordance with this Agreement or within the timeframe required by the DNC in any breach notification;

12.3.4   the Registrar did not obtain DNC's prior written consent to any assignment in accordance with clause 14.2 or change in the Registrar's Control in accordance with clause 14.3;

12.3.5   the Registrar suffers an Insolvency Event; or

12.3.6   the Registrar or any of its Directors breaches any Applicable Law or is convicted of any offence involving dishonesty, fraud, misuse of funds or misuse of information.

12.4   **Effect of termination**: On termination of this Agreement:

12.4.1   the Registrar will, if it has terminated in accordance with clause 12.2, transfer the .nz Domain Names under its management to one or more Registrars in accordance with the .nz Rules; or

12.4.2   if DNC has terminated in accordance with clause 12.3, DNC will:

(a)   set a date by which Domain Name Holders must transfer their .nz Domain Name to a new Registrar; and

(b)   notify each affected Domain Name Holder of the removal of the Registrar's authorisation and the actions required by them under the .nz Rules; and

12.4.3   each party will do all things necessary to comply with the termination obligations under clause 12.5.

12.5   **Obligations on termination**: On termination of this Agreement:

12.5.1   the Registrar will immediately cease acting as a Registrar and not access the .nz Register other than to continue to serve its current Domain Name Holders until they have been transferred to a new Registrar;

12.5.2   the Registrar will immediately stop holding itself out as a Registrar to anyone other than its current Domain Name Holders;

12.5.3   the Registrar will continue to do all things necessary to comply with the .nz Rules and safeguard the rights of its Domain Name Holders;

12.5.4   the Registrar will comply with any deadlines for the transfer of .nz Domain Names imposed by DNC;

12.5.5 the Registrar will work in good faith with the Domain Name Holders, DNC, InternetNZ, other Registrars and any other person necessary to transfer each .nz Domain Name under the Registrar's management to one or more other Registrars; and

12.5.6 the Connection Agreement will automatically terminate once DNC is satisfied that the obligations under this clause 12.5 have been complied with.

12.6 **Survival**: This clause 12 survives termination or expiry of this Agreement.

13   Disputes

13.1 **Dispute resolution**: No party to this Agreement will commence any court proceedings relating to a dispute arising out of or related to this Agreement unless that party has first complied with this clause 13.

13.2 **Notice**: If a dispute arises out of or related to this Agreement, a party must give notice in writing to the other party of the details of the dispute.

13.3 **Good faith negotiations**: The parties will try in good faith to resolve any dispute by negotiation, including by ensuring that senior representatives of each party meet to negotiate the dispute in good faith.

13.4 **Mediation**: Except where DNC has given written notice to the Registrar that a mediation is not required, the parties must refer to mediation any dispute that is not resolved within 20 Business Days of receipt of the notice in clause 13.2. The parties agree to mediate any dispute in terms of the Resolution Institute standard Mediation Agreement (NZ version). The mediation will be conducted by a mediator and at a fee agreed by the parties. Failing agreement between the parties within five Business Days of the notice given under this clause 13.4, the mediator will be selected by the Chair f the Resolution Institute.

14   General

14.1 Except as otherwise expressly stated in this Agreement (including in relation to the .nz Rules), this Agreement constitutes the entire agreement, understanding and arrangement (express and implied) between the parties in respect of the matters contained in this Agreement, to the exclusion of all other agreements, arrangements, understandings, conduct or representations, whether express or implied, and therefore supersedes any prior agreements (including any prior form of authorisation agreement entered into between DNC and the Registrar), arrangements, understandings, conduct and representations between the parties in respect of such matters of any nature.

14.2 The Registrar may not assign or transfer in whole or in part any of its rights or obligations under this Agreement without DNC's prior written consent.

14.3 Any change in the Registrar's Control is deemed to be an assignment for which DNC's prior written consent is required under clause 14.2.

14.4   DNC may assign its rights under this Agreement (whether in whole or in part) to any third party, including without limitation to InternetNZ or any successor operator of the .nz Domain Name Space, without the Registrar's prior written consent. DNC shall notify the Registrar in writing of any assignment within a reasonable period following the effective date of the assignment and, where a successor operator is appointed, the parties shall cooperate in good faith to facilitate any such transition to the successor operator.

14.5   Failure of either party to insist in any instance on strict performance by the other of any provision of this Agreement will not be construed or deemed to be a permanent waiver of such or any other provision of this Agreement.

14.6   Except as expressly provided in this Agreement:

14.6.1   nothing in this Agreement constitutes any relationship of agent and principal, partnership or joint venture between the Registrar and DNC;

14.6.2   neither party has any right, power or authority, express or implied, to act, or to create any obligation, on the other party's behalf; and

14.6.3   each party will not bind or purport to bind the other party.

14.7   The rights and remedies provided in this Agreement are in addition to any other rights and remedies given by law and may be exercised singularly or concurrently.

14.8   Any illegal, unenforceable or invalid provision of this Agreement will not affect the legality, enforceability or validity of the remaining provisions of this Agreement.

14.9   This Agreement is exclusively governed by, and construed in accordance with, the laws of New Zealand.

14.10 The parties submit to the exclusive jurisdiction of the New Zealand courts.

14.11 All notices and other communications required or permitted under this Agreement will be in writing and shall either be sent by email, post or hand delivered by one party to the other and addressed to the relevant party at the role or title as set out at the beginning of this Agreement or to such other role, title or address as a party may designate by written notice to the other party. Any such notice shall be deemed to be given when:

14.11.1 in the case of email, on the Business Day on which it is dispatched or, if dispatched after 5.00pm or on a non-Business Day then on the next Business Day after the date of dispatch;

14.11.2 in the case of hand delivery, when so delivered personally to the party; and

14.11.3 in the case of post, on the expiry of 10 Business Days after posting.

If the delivery or transmission of any notice given under this Agreement is on a day that is not a Business Day, or occurs after 5pm on any Business Day, the notice will be deemed to be received on the next following day which is a Business Day.

14.12 This Agreement may be signed in any number of counterparts (including via electronic signature and/or through copies transmitted by electronic means). Provided that each party has signed a counterpart, when taken together, the counterparts will constitute a binding and enforceable Agreement between the parties.

14.13 This clause 13 survives termination or expiry of this Agreement.

Example only

SCHEDULE 1 – SPECIAL CONDITIONS

1   Special Conditions

1.1.   The Registrar will do all things necessary to comply with the following Special Conditions within the timeframe requested by DNC:

SCHEDULE 2 – DOMAIN NAME HOLDER AGREEMENT CORE TERMS AND CONDITIONS

1.1   This Schedule sets out the minimum core terms and conditions that DNC requires all Registrars to include or incorporate in its Domain Name Holder Agreement. This Schedule must be complied with for a Registrar to fulfil its obligations under clause 4.1.7 of this Agreement.

1.2   DNC does not represent that the terms and conditions set out in this Schedule are a complete and full list of the terms that should be included in a Domain Name Holder Agreement. Registrars are encouraged to consider other relevant terms but they must be consistent with the terms of this Agreement and the .nz Rules.

1.3   Any capitalised terms in this Schedule have the meaning given to them in this Agreement.

1.4   The Domain Name Holder Agreement must:

     1.4.1   set out that the Registrar will:

         (a)   comply with the .nz Rules;

         (b)   comply with the Domain Name Holder's lawful directions regarding its .nz Domain Name in a timely manner;

         (c)   on request by the Domain Name Holder, arrange for correction of any error in the information on the .nz Register about any .nz Domain Name registered to the Domain Name Holder;

         (d)   comply with all applicable laws, including, without limitation, laws in respect of privacy and data protection; and

         (e)   inform Domain Name Holders that any personal information provided to the Registrar will be made available to DNC (and any other relevant parties) on request by DNC and that the Domain Name Holder expressly agrees to this.

     1.4.2   provide for:

         (a)   the steps that the Registrar will take to safeguard and protect all information about the Domain Name Holder stored in the Registrar's databases and systems;

         (b)   the manner in which the Registrar will deal with complaints the Domain Name Holder may have about the services provided by the Registrar; and

         (c)   notifying an applicant, that to register a .nz Domain Name on behalf of an applicant, the applicant agrees:

             (i)   to the Registrar's terms and conditions

             (ii)   to be bound by the .nz Rules; and

(iii) that any non-compliance with the Registrar's terms and conditions or the .nz Rules could result in the applicant's .nz Domain Name not being registered or being cancelled.

1.4.3   set out that the Domain Name Holder must:

(a) comply with the .nz Rules;

(b) ensure all information it gives the Registrar is accurate and complete and keep the Registrar updated of any changes to any information given to the Registrar;

(c) satisfy itself that its use of any .nz Domain Name will not infringe any other person or entity's intellectual property rights;

(d) use the Registrar's services in respect of the .nz Domain Name for lawful purposes only; and

(e) comply with any order of any Court or authority having jurisdiction regarding any .nz Domain Name registered to the Domain Name Holder.